

**REMARKS**

In accordance with the foregoing, claims have been neither cancelled nor amended. Claims 3-25, 27, and 37-39 are pending and under consideration. Reconsideration is respectfully requested.

**REJECTIONS UNDER 35 U.S.C. § 102**

Claim 39 is rejected under 35 U.S.C. § 102(e) as being anticipated by Tsinberg et al. (U.S. Patent No. 6,212,680)).

Claim 39 recites “simultaneously with the acquiring of the program guide information, displaying a program list including program guide information of channels obtained by the tuner before the program guide command is applied, in response to the program guide command.”

Tsinberg et al. discloses “In another embodiment, CPU 6 continuously searches all digitally broadcast channels looking for EPG information. When it receives EPG information, CPU 6 integrates it into existing EPG information. This method has the advantage that CPU 6 can perform multi-channel EPG searching and soft PIP display simultaneously. The flowchart of FIG. 5 shows the steps for carrying out this process. First, assume a viewer commands CPU 6 to tune PIP tuner to a particular channel. CPU 6 receives this channel selection (step 50) and tunes PIP tuner 8 to the selected channel (step 51). CPU 6 receives, decodes, and displays as many frames of video information its processing speed can handle, but it at least displays an I frame (step 52). The frames of video would appear in a window inside the image provided by main tuner 1. Then, CPU 6 tunes PIP tuner 8 to a different channel to collect EPG information (step 53). If EPG information is present on the channel (step 54), it is collected and combined with previously acquired EPG information (step 55). Otherwise, CPU 6 tunes PIP tuner 8 back to the channel selected by the viewer (step 51) to receive, decode, and display more video frames (step 52). This tuning and re-tuning of PIP tuner 8 continues until CPU 6 has collected EPG information from all the channels. The time it takes to collect EPG data while viewing picture-in-picture will depend on the processing speed of CPU 6.”(col. 6, lines 26-51-emphasis added).

As noted above, Tsinberg et al. discusses simultaneously displaying soft PIP with searching multi-channel EPG and displaying as many frames of video information or at least only an I frame.

Thus, “soft PIP display” disclosed in Tsinberg et al. involves displaying image signals, but fails to disclose “displaying a program list including program guide information of channel.”

Accordingly, it is respectfully submitted that Tsinberg does not disclose the invention as recited in claim 39.

**REJECTIONS UNDER 35 U.S.C. § 103**

Claims 3-10, 12-15, 19-23, 27, and 37-38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cuccia (U.S. Patent No. 6,337,719) in view of Tsinberg et al.

Claim 3 recites "wherein the program guide information is acquired according to a prioritized or preferential channel search..."

Cuccia discusses "at that moment the scanning process is started. Upon a predetermined user command, the compound EPG is retrieved from the storage means 120 and displayed on the screen 108. When the EPG in the storage means 120 has been updated, the timer 119 is restarted for measuring another twenty four hour period" (see col. 4, lines 49-55 of Cuccia).

However, Cuccia fails to at least disclose "wherein the program guide information is acquired according to a prioritized or preferential channel search..." as recited in claim 3.

As such, it is respectfully submitted that the combination of Cuccia and Tsinberg et al. does not teach or suggest the invention as recited in claim 3.

Claim 4 recites "further comprising providing a message indicating that the user must wait until the program list is written."

The Office Action acknowledges that the combination of Cuccia and Tsinberg et al. does not disclose the features as recited in claim 4.

However, the Office Action asserts that the capability of displaying message indicating the user must wait until the program is written is well known and the old in the art.

It is noted that "Official Notice" without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. While "Official Notice" may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)). In *Ahlert*, the court held that the Board properly took judicial notice that "it is old to adjust intensity of a flame in accordance with the heat requirement." See also *In re Fox*, 471 F.2d 1405, 1407, 176 USPQ 340, 341 (CCPA 1973) (the court took "judicial notice of the fact that tape recorders commonly erase tape automatically when new 'audio information' is recorded on a tape which already has a recording on it"). In appropriate circumstances, it might not be unreasonable to take official notice of the fact that it is desirable to make something faster,

cheaper, better, or stronger without the specific support of documentary evidence. Furthermore, it might not be unreasonable for the examiner in a first Office action to take official notice of facts by asserting that certain limitations in a dependent claim are old and well known expedients in the art without the support of documentary evidence provided the facts so noticed are of notorious character and serve only to "fill in the gaps" which might exist in the evidentiary showing made by the examiner to support a particular ground of rejection. *In re Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001); *Ahlert*, 424 F.2d at 1092, 165 USPQ at 421." (see MPEP 2144.03).

Accordingly, it is respectfully submitted that the combination of Cuccia and Tsinberg et al. fails to disclose the invention as recited in claim 4.

In addition, claims 5-6 are patentable due at least to their depending from claim 3, as well as for the additional recitations therein.

Claim 7 recites "said acquiring the program guide information comprises determining the sequence of accessing channels by proximity of channels to the channel tuned before the program guide command is executed."(emphasis added).

Cuccia discusses "the tuner is free to scan the signals for the EPG information."(col. 4, lines 23-24).

Cuccia further discusses "the tuner 103 is not used for scanning the stations autonomously, but in fact the scanning behavior of the user is utilized to collect the EPG information. The micro processor 118 might be further programmed to keep a record of TV-stations from which subsequent EPG information has been extracted recently, so that a subsequent EPG update, e.g. at night or just after power-on, can be shortened."(col. 5, lines 5-11)

As noted above, Cuccia merely discloses a tuner can scan and microprocess can keep a record of TV-stations from which subsequent EPG information has been extracted recently, but fails to disclose "the sequence of accessing channels by proximity of channels to the channel tuned before the program guide command is executed." as recited in claim 7.

As such, it is respectfully submitted that the combination Cuccia and Tsinberg et al. does not teach or suggest the invention as recited in claim 7.

Claim 8 recites "determining the order of priority of channels having the same proximity to the channel tuned before the program guide command is executed according to a channel up/down command input before corresponding channels are accessed."(emphasis added).

However, Cuccia fails to disclose “determining the order of priority of channels... according to a channel up/down command input before corresponding channels are accessed.” as recited in claim 8.

Accordingly, it is respectfully submitted that the combination Cuccia and Tsinberg et al. does not teach or suggest the invention as recited in claim 8.

Claim 9 recites “wherein an upward or downward direction is preferential when no channel up/down command is executed.”(emphasis added).

Cuccia discloses “Various examples of how a compound EPG might look like are disclosed in EP 0 774 868 A1. Basically, it comprises a list of program items, which are ordered by their start time. Various ways of filtering the program items might be applied, e.g. by category or by TV station. Means for enabling a user to enter search requests are disclosed in EP 0 774 868 A1 as well, e.g. the application of a virtual on-screen keyboard for entering textual items.”

As noted above, Cuccia discloses “filtering the program item by category or by TV station,” but fails to disclose “an upward or downward direction” as recited in claim 9.

Accordingly, it is respectfully submitted that the combination Cuccia and Tsinberg et al. does not teach or suggest the invention as recited in claim 9.

Claim 10 recites “searching channels upward or downward from the channel tuned before the program guide command is executed.”

Again, none of cited references teach or suggest “searching channels upward or downward from the channel tuned” as recited in claim 10.

Claims 11, 16-17, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cuccia in view of Tsinberg et al.

Claims 11 and 24 are patentable due at least to their depending from claims 1 and 19, respectively.

Claim 16 recites “wherein said acquiring the guide information comprises searching channels upward or downward from the currently tuned in channel before the program guide command is executed.”

Cuccia merely discusses “the tuner 103 is free to scan the signals for the EPG information. (col. 4, lines 23-24), but fails to recite “searching channels upward or downward from the currently tunes in channel before the program guide command is executed.” As recited in claim 16.

Accordingly, it is respectfully submitted that the combination of Cuccia and Tsinberg et al. does not teach or suggest the invention as recited in claim 16.

Claim 17 is patentable due at least to its depending from claim 12, as well as for the additional recitations therein.

Claims 18 and 25 are rejected under 35 U.S.C. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention to incorporate as being unpatentable Cuccia in view of Tsinberg et al., and further in view of Mugura et al. (U.S. Patent No. 6,243,142).

Claim 18 recites "displaying a message indicating a status of program guide information in response to the program guide information of a corresponding channel not being stored."

Mugura et al. discloses "A method and apparatus for displaying graphic images to indicate a status of programs in an electronic program guide are provided. According to one aspect of the invention, a multiple channel broadcasting system generates an electronic program guide identifying channels and corresponding programs in the broadcasting system. The broadcast system generates at least one graphic image to indicate a status of these programs, the status including whether a user has selected pay-per-view broadcasts for purchase. The status also includes whether a broadcast system timer has been set to tune to a particular channel program at a designated time, whether a channel program has been set for recording, and whether a program is designated as a favorite program. The broadcast system displays the graphic images or icons within an electronic program guide in areas delineating particular programs that a user has selected for purchase so that the user can view the status of the programs while viewing the electronic program guide. The broadcast system also displays the graphic images within electronic menus."(col. 2, lines 20-40).

Mugura et al. discloses displaying status related to "a particular channel program at a designated time, a channel program has been set for recording, and whether a program is designated as a favorite program," but fails to disclose "displaying a message indicating a status of program guide information in response to the program guide information of a corresponding channel not being stored." as recited in claim 18.

Thus, it is respectfully submitted that the combination of Cuccia, Tsinberg et al., and Mugura et al. does not teach or suggest the invention as recited in claim 18.

In addition, claim 25 is also patentable due at least to the same or similar reasons as claim 18.

### **CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: MAY 19, 2010

By:   
Sang Chul Kwon  
Registration No. 63,153

1201 New York Ave, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501